



# *COMMONWEALTH of VIRGINIA*

*Office of the Governor*

Matthew J. Strickler  
Secretary of Natural Resources

June 1, 2020

Dana Aunkst, Director  
Chesapeake Bay Program Office  
410 Severn Avenue  
Annapolis, MD 21403

Re: EPA Evaluation of Virginia's 2018-2019 and Draft 2020-2021 Milestones

Dear Director Aunkst:

In response to the Environmental Protection Agency's (EPA) evaluation of Virginia's Milestones, I am providing the attached 2020-2021 Milestones (Attachments A and B) with revisions shown in tracked changes. Those changes address EPA's "key areas to address" and reflect our response to significant and beneficial input from the public, including conservation, wastewater, local government and agriculture stakeholders. I have also attached EPA's evaluation document with added notes in red font addressing necessary corrections and clarifications (Attachment C).

I wish to reiterate Virginia's concern that EPA statements regarding the Commonwealth's 2019 progress are inaccurate and misleading to the public. Virginia recommends that the most appropriate action by EPA is to remove the flawed analysis from the 2018-2019 evaluation or, at a minimum, provide a clear and prominent explanation of the results. Suggested language is provided in Attachment C.

For the record, Virginia submits its best management practice (BMP) records through NEIEN in approximately 80 separate XML instance files. These files each have specific unique names in NEIEN. When a new instance file for 2019 BMP implementation was submitted with the same name as one of the historical files, 44,000 BMP records were overwritten and removed from the progress records. That error changed the history of BMP implementation from 2009 through 2018. Because this problem involved records removed in their entirety, the error was not seen in any of the typical QA/QC reports for submitted records. The error was identified when the Virginia Department of Environmental Quality (DEQ) reviewed the CAST2019 model. Virginia was able to expeditiously correct the error and the historical record of BMPs has been restored in CAST2019.

DEQ exported Virginia’s correct BMP record from CAST2019 and imported it into a new scenario in CAST2017 to compare the corrected BMP record of 2019 progress with the inaccurate record of progress. As shown in the table below, this analysis demonstrates that the BMP records removed from the progress run are providing significant pollution reduction benefits and would alter EPA’s progress report. Citing time constraints and established deadlines, EPA refused to re-run its analysis with the correct BMP record. Virginia chose not to elevate that decision to the Chesapeake Bay Program Principals Staff Committee based in part on the understanding that EPA’s evaluation would accurately explain this situation. Unfortunately, EPA’s evaluation retains definitive statements regarding Virginia’s 2019 progress without adequate context.

**Table 1: Accurate Information on Virginia’s Pollution Reduction Progress**

	<b>Nitrogen</b>	<b>Phosphorus</b>	<b>Sediment</b>
<b>Inaccurate 2019 Progress (Edge Of Tide Loads in Pounds)</b>	58,375,858	6,266,734	6,401,752,013
<b>Corrected 2019 Progress (Edge Of Tide Loads in Pounds)</b>	57,602,435	6,203,407	6,363,651,104
<b>Difference (additional pollution reductions in pounds)</b>	773,423	63,327	38,100,909

Virginia’s 2020-2021 Milestones (programmatic and numeric) include the following placeholder note indicating that it is my intention to review these milestones after Governor Northam calls the Virginia General Assembly to a special legislation session to address the biennial budget:

*Virginia prepared the draft 2020-2021 Milestones and initiated public review and comment prior to Governor Northam’s issuance of Executive Order #51 “Declaration of a State of Emergency Due to Novel Coronavirus (COVID-19)” on March 12, 2020. Circumstances have changed significantly since release of the draft milestones and still the full impact of COVID-19 on the Commonwealth will not be clear for some time. Therefore, I am directing the Chesapeake Bay TMDL interagency team to revisit the 2020-2021 Milestones in the fall to determine if revisions are necessary once there is clarity on the economic impacts of COVID-19.*

A re-evaluation is warranted given the economic impacts of the ongoing pandemic; however, a review of the Milestones at this time is not appropriate given continued uncertainty about any necessary changes to Virginia’s budget. This action will be consistent with guidance received from a number of local government and conservation stakeholders.

I appreciate EPA's feedback on Virginia's milestones as well as the time provided to our state agency staff to discuss your evaluation. If you have any questions regarding Virginia's response and the revised 2020-2021 Milestones, please do not hesitate to contact Deputy Secretary Jennings or me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew J. Strickler', with a long horizontal flourish extending to the right.

Matthew J. Strickler

Attachments

cc: Bettina Ring, Virginia Secretary of Agriculture and Forestry  
David Paylor, Director, Virginia Department of Environmental Quality  
Ann Jennings, Virginia Deputy Secretary of Natural Resources for the Chesapeake Bay  
Diane McNally, EPA, Environmental Engineer/Chesapeake Bay Regulatory Manager